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8
9 **UNITED STATES DISTRICT COURT**
CENTRAL DISTRICT OF CALIFORNIA
10 **WESTERN DIVISION**

11 UNITED STATES OF AMERICA and CALIFORNIA
DEPARTMENT OF TOXIC SUBSTANCES
12 CONTROL,

13 Plaintiffs,

14 v.

15 ADAMS FAMILY TRUST, SPARLING
INSTRUMENTS CO., INC., BALL GLASS
16 CONTAINER CORPORATION, BEAGLE
MANUFACTURING COMPANY, INC., BEAGLE
17 PROPERTIES, INC., BROWN JORDAN COMPANY,
CHADBURY COMPANY, INC., CHADWICK
ASSOCIATES, CLAYTON INDUSTRIES, CLAYTON
18 LAND HOLDING COMPANY, FAIRCHILD
HOLDING CORP., NIKKO MATERIALS USA, INC.
19 (b/d/a GOULD ELECTRONICS INC.), HERMETIC
SEAL CORPORATION, JOHNSON CONTROLS,
20 INC., PAUL LEE, M.C. GILL CORPORATION,
MILLER DIAL CORP., PARKS PROPERTIES, INC.,
21 PERKINELMER, INC., BIRTCHER MEDICAL
SYSTEMS, INC., PLATO PRODUCTS, INC., KENEL,
22 INC., ELDRED AND KENT, PRECISION COIL
SPRING COMPANY, B. J. SABIN, SABIN
23 CONSTRUCTION, INC., SAFETY-KLEEN
SYSTEMS, INC., TRAIL CHEMICAL
24 CORPORATION, UNION PACIFIC RAILROAD
COMPANY, HARBERT GRAND INVESTMENT
25 COMPANY, LLC, LARRY G. LINDQUIST,
CHARLEEN S. LINDQUIST, DAVID RODRIGUEZ,
26 JR., DOLORES RODRIGUEZ, GLEN E. POWELL,
ESTATE OF THALIA POWELL, LYLE A. SCHMIDT,
27 and KAREN L. SCHMIDT,

28 Defendants.

C.A. _____
Civil Action Number to
be Assigned.

COMPLAINT

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1 **COMPLAINT**

2 The United States of America, by the authority of the Attorney General of the United
3 States and through the undersigned attorneys, acting at the request of the Administrator of the
4 United States Environmental Protection Agency ("EPA"), and the State of California Department
5 of Toxic Substances Control ("DTSC"), file this complaint and allege as follows:

6 **NATURE OF ACTION**

7 1. This is a civil action brought under Sections 106 and 107, and 113 of the
8 Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended
9 ("CERCLA"), 42 U.S.C. §§ 9606, 9607 and 9613, for injunctive relief, recovery of costs
10 incurred, and for a declaratory judgment of liability for costs to be incurred. Plaintiffs seeks
11 injunctive relief to remedy an imminent and substantial endangerment to human health and the
12 environment arising out of releases and threatened releases of hazardous substances at the El
13 Monte Operable Unit (the "Site") of the San Gabriel Valley Area 1 Superfund Site in El Monte,
14 Los Angeles County, California. Plaintiffs also seek to recover the un-reimbursed response costs
15 incurred in connection with the Site, and a declaratory judgment that the Defendants are liable for
16 all future response costs incurred by the Plaintiffs in connection with the release or threatened
17 release of hazardous substances at the Site.

18 **JURISDICTION AND VENUE**

19 2. This Court has jurisdiction over the subject matter of this action under 28 U.S.C.
20 §§ 1331 (Federal question) and 1345 (United States as plaintiff), and under Section 113(b) of
21 CERCLA, 42 U.S.C. § 9613(b) (Jurisdiction; venue).

22 3. Venue is proper in the Western Division of the Central District of California
23 pursuant to 28 U.S.C. §§ 84(c)(2) (Central District of California; Western Division) and 1391(b)
24 (Venue generally), and section 113(b) of CERCLA, 42 U.S.C. § 9613(b) (Jurisdiction; venue),
25 because the El Monte Operable Unit is located in Los Angeles County, the releases or threatened
26 releases of hazardous substances that give rise to the United States' claim occurred in Los
27 Angeles County, and because the Defendant reside in this District.
28

GENERAL ALLEGATIONS

4. The San Gabriel Valley Superfund Site was added to the National Priorities List in 1984, as four separate "Areas," and EPA has further divided Area 1 into several "operable units," including the El Monte Operable Unit (hereinafter, the "Site").

5. The Site (El Monte Operable Unit) addresses an approximately 10 square mile area of groundwater contamination in and near the cities of El Monte, Rosemead, and Temple City.

6. The ground water at the Site is contaminated with volatile organic compounds ("VOCs"), including but not limited to tetrachloroethene (PCE), Trichloroethene (TCE), 1,1-Dichloroethane (1,1-DCA), 1,2-Dichloroethane (1,2-DCA), 1,1-Dichloroethene (1,1-DCE), cis-1,2-Dichloroethene (cis-1,2-DCE), 1,1,1-Trichloroethane (1,1,1-TCA), and Carbon Tetrachloride (CTC). Each of these compounds is a "hazardous substance" within the meaning of CERCLA. 42 U.S.C. § 9601(14); 40 C.F.R. Part 302.4.

7. EPA and a number of the Settling Defendants commenced in March, 1995, a Remedial Investigation and Feasibility Study ("RI/FS") for the Site pursuant to 40 C.F.R. § 300.430. The Remedial Investigation ("RI") Report was completed on April, 1998, and the Feasibility Study ("FS") Report was completed in July, 1998.

8. The decision by EPA on the remedial action to be implemented at the Site is embodied in an Interim Record of Decision ("IROD"), executed on June 23, 1999. The IROD calls for pumping of groundwater to remove contaminants. In August 2002, EPA issued an Explanation of Significant Differences ("ESD") modifying the IROD.

9. EPA and DTSC to date have incurred un-reimbursed costs in responding to releases of hazardous substances at and from the Site.

DEFENDANTS

10. For purposes of Paragraphs 11-31, the terms "person," "facility," "owner," "operator," "hazardous substances," "release," and "disposed of" or "disposal," shall have the meanings set forth in Section 101 of CERCLA. 42 U.S.C. § 9601.

11. The Adams Family Trust, a California trust, is a person, and by assumption of

1 liabilities is successor to the liabilities of Sparling Instruments Co., Inc. ("Sparling"). Sparling, a
2 California corporation, is a person who owned and operated a manufacturing facility at 4097
3 Temple City Boulevard in El Monte, California from 1986 to 1996. Hazardous substances were
4 disposed of and released at and from this facility, during the time of Sparling's operation and
5 ownership.

6 12. Ball Glass Container Corporation, a Delaware corporation, is a person, who owns
7 and has owned and operated a facility at 4000 Arden Drive in El Monte, California since 1987.
8 Hazardous substances were disposed of and released at and from this facility, during the time of
9 operation and ownership of Ball Glass Container Corporation.

10 13. Beagle Manufacturing Company, Inc., a California corporation, is a person, and
11 owned and operated a facility at 4377 Baldwin Avenue in El Monte, California from 1967 to
12 1986. Hazardous substances were disposed of and released at and from the facility during the
13 time of the operation and ownership of Beagle Manufacturing Company, Inc. Beagle Properties,
14 Inc., a California corporation, is a person, and is the current owner of the facility at 4377 Baldwin
15 Avenue.

16 14. Brown Jordan Company, a Delaware corporation, is a person who owns and has
17 owned and operated a facility at 9860 Gidley Street in El Monte, California since the early
18 1950's. Hazardous substances were disposed of and released at and from the facility during the
19 time of operation and ownership of Brown Jordan Company.

20 15. Chadbury Company, Inc., a California corporation, is a person and was formerly
21 known as Chadwick-Helmuth Company, Inc. Chadwick-Helmuth Company, Inc., was a person
22 and owned and operated a facility at 4601 N. Arden Drive in El Monte, California, beginning in
23 1979. Hazardous substances were disposed of and released at and from the facility during the
24 time of operation of Chadwick-Helmuth Company, Inc. Chadwick Associates, a California
25 partnership is a person and is the curent owner of the facility at 4601 N. Arden Drive.

26 16. Clayton Industries, a California corporation, is a person and has leased a facility at
27 4213 N. Temple City Boulevard in El Monte, California since 1979. Clayton Industries, through
28 its subsidiary Clayton Manufacturing, has operated on the facility since 1980. Clayton

1 Manufacturing operated the facility from 1946 to 1979. Hazardous substances were disposed of
2 and released at and from the facility during the time of operation of Clayton Industries and
3 Clayton Manufacturing. Clayton Land Holding Company, a California corporation, is a person
4 and is the current owner of the facility at 4213 N. Temple City Boulevard.

5 17. Fairchild Holding Corp., a Delaware corporation, is a person and is the current
6 owner of the facility at 9440 and 9620 Gidley Street in Temple City, California. Hazardous
7 substances were disposed of and released at and from the facility.

8 18. Nikko Materials USA, Inc., d/b/a Gould Electronics Inc., is an Arizona
9 corporation and is a person. One or more corporate predecessors to Nikko owned and operated a
10 facility at 4323 Arden Drive in El Monte, California. Hazardous substances were disposed of
11 and released at and from the facility during the time of the operations and ownership of Nikko's
12 predecessors.

13 19. Hermetic Seal Corporation, a Delaware corporation, is a person, and owns and has
14 owned and operated a manufacturing facility at 4232 Temple City Boulevard in Rosemead,
15 California, since 1959. Hazardous substances were disposed of and released at and from the
16 facility during the time of ownership and operation of Hermetic Seal Corporation.

17 20. Johnson Controls, Inc., a Wisconsin corporation, is a person and owned and
18 operated a manufacturing facility located at 4501 and 4505 North Arden Drive, El Monte, CA.
19 Hazardous substances were disposed of and released at and from the facility during the time of
20 the operations and ownership of Johnson Controls, Inc.

21 21. M.C. Gill Corporation, a California corporation, is a person and has operated a
22 facility at 4056 Easy Street in El Monte, California since 1960. Hazardous substances were
23 disposed of and released at and from the facility during the time of operation of M.C. Gill
24 Corporation.

25 22. Paul Lee, an individual, is a person, and is the current owner of the facility at 9406
26 East Valley Boulevard in Rosemead, California, where a dry cleaning business operated from
27 1949 to September 1995. Hazardous substances were disposed of and released at and from the
28 facility.

1 23. Miller Dial Corp., a California corporation, is a person and has operated a facility
2 at 4400 N. Temple City Boulevard in El Monte, California since 1953. Hazardous substances
3 were disposed of and released at and from the facility during the time of operation of Miller Dial
4 Corp. Parks Properties, Inc., a California Corporation, is a person and is the current owner of the
5 facility at 4400 N. Temple City Boulevard.

6 24. Birtcher Medical Systems, Inc., is a California corporation, is a person, and was
7 formerly named the Birtcher Corporation. Birtcher Medical Systems, Inc. and/or the Birtcher
8 Corporation operated all or part of the facility located at 4501 and 4505 North Arden Drive, El
9 Monte, CA from 1977 until at least 1990. PerkinElmer, Inc., a Massachusetts corporation, is a
10 person and was formerly named EG&G Birtcher, Inc. On October 19, 1984 EG&G Birtcher
11 began operating the facility at 4505 N. Arden, that had previously been operated by Birtcher
12 Medical Systems, Inc. Hazardous substances were disposed of and released at and from the
13 facility during the time of the operations of Birtcher Medical Systems, Inc. and/or the Birtcher
14 Corporation and/or PerkinElmer, Inc., and/or EG&G Birtcher, Inc.

15 25. Plato Products, Inc., a California corporation, is a person and operated a facility at
16 4357 Rowland Avenue in El Monte, California from 1963 until 1984. Kenel, Inc., a California
17 corporation, is a person and operates a facility at 4357 Rowland Avenue in El Monte, California.
18 Hazardous substances were disposed of and released at and from the facility during the time of
19 the operations of Plato Products, Inc. and of Kenel, Inc. Eldred and Kent, a California general
20 partnership, is a person and is the current owner of 4357 Rowland Avenue in El Monte.

21 26. Precision Coil Spring Company, a California corporation, is a person and owns
22 has owned the facility located at 10107 Rose Street, El Monte, California since 1959.
23 Neighboring property located at 10125 Rose Street was purchased by Precision Coil in 1978 and
24 combined with the 10107 Rose Street Property. Precision Coil has operated a manufacturing
25 facility located on these facilities. Hazardous substances were disposed of and released at and
26 from the facility during the time of the operations and ownership of Precision Coil Spring
27 Company.

28 27. B. J. Sabin, an individual, is a person, and owns and has owned 4327 North

1 Temple City Blvd., Temple City, CA since 1986. Sabin Construction, Inc., a California
2 corporation, is a person, and is wholly owned by B.J. Sabin, and, on information and belief, may
3 have been the operator of the facility. Hazardous substances were disposed of and released at
4 and from this facility, during the time of B. J. Sabin's ownership, and during the time of
5 operation of Sabin Construction, Inc.

6 28. Safety-Kleen Systems, Inc., a Wisconsin corporation, is a person and has owned
7 and operated a facility at 10625 Hickson Street in El Monte, California since 1979. Hazardous
8 substances were disposed of and released at and from this facility, during the time of the
9 operations of Safety-Kleen Systems, Inc.

10 29. Trail Chemical Corporation, a California corporation, has owned and operated a
11 facility at 9904 Gidley Street in El Monte, California since 1948. Hazardous substances were
12 disposed of and released at and from this facility, during the time of the operations of Trail
13 Chemical Corporation.

14 30. Union Pacific Railroad Company, a Delaware corporation, is a person and is the
15 current owner of the facility at 4301 Temple City Blvd., in Temple City. Hazardous substances
16 were disposed of and released at and from this facility.

17 31. There is a facility at 10946 East Grand Avenue in Temple City, California known
18 hereinafter as the "Grand Avenue Industrial Park Facility." Hazardous substances were
19 disposed of and released at and from this facility. The Grand Avenue Industrial Park Facility
20 property is currently owned by a group of persons known hereinafter as the "Grand Avenue
21 Industrial Park Group." Each member of the Grand Avenue Industrial Park Group, as listed in
22 this paragraph, is a person, and is a current owner of the Grand Avenue Industrial Park Facility.
23 The members of the Grand Avenue Industrial Park Group are: Harbert Grand Investment
24 Company, LLC, a California limited liability company; Charleen S. Lindquist, an individual;
25 Larry G. Lindquist, an individual; Glen E. Powell, an individual; the estate of Thalia Powell;
26 David Rodriguez, Jr., an individual; Dolores Rodriguez, an individual; Karen L. Schmidt, an
27 individual; and Lyle A. Schmidt, an individual.
28

1 **FIRST CLAIM FOR RELIEF**

2 32. Paragraphs 1 through 31 are re-alleged and incorporated herein by reference.

3 33. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42
4 U.S.C. § 9601(9).

5 34. There has been a "release" and/or threatened "release," as defined by Section
6 101(22) of CERCLA, 42 U.S.C. 9601(22), of hazardous substances at and from the Site.

7 35. As a result of the release and threatened release of hazardous substances from the
8 Site, the United States and DTSC have incurred "response" costs, as that term is defined by
9 Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

10 36. Defendants are each liable under Section 107(a) of CERCLA. 42 U.S.C. §
11 9607(a).

12 37. Pursuant to Section 107(a)(1-4)(A) of CERCLA, Defendants are liable for "all
13 costs of removal or remedial action incurred" by the United States and DTSC, "not inconsistent
14 with the national contingency plan." 42 U.S.C. § 9607(a)(1-4)(A).

15 38. This claim for relief seeks recovery of response costs incurred prior to the
16 resolution of this case, and, pursuant to Section 113(g)(2) of CERCLA, 42, U.S.C. § 9613(g)(2),
17 a declaratory judgment on liability for future response costs.

18 **SECOND CLAIM FOR RELIEF**

19 39. Paragraphs 1 through 31 are re-alleged and incorporated herein by reference.

20 40. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in pertinent part:

21 In addition to any other action taken by a State or local government, when the President
22 determines that there may be an imminent and substantial endangerment to the public
23 health or welfare or the environment because of an actual or threatened release of a
24 hazardous substance from a facility, he may require the Attorney General of the United
25 States to secure such relief as may be necessary to abate such danger or threat, and the
26 district court of the United States in the district in which the threat occurs shall have
27 jurisdiction to grant such relief as the public interest and the equities of the case may
28 require.

41. By Executive Order 12580 of January 23, 1987, the President's functions under 106(a) of CERCLA, 42 U.S.C. 9606(a), have been delegated to the Administrator of EPA.

42. The IROD establishes that EPA has determined that there is or may be an imminent and substantial endangerment to the public health or welfare or the environment because of actual or threatened releases of hazardous substances from the Site.

43. The IROD selects an interim remedy for the Site.

44. The Defendants are liable for injunctive relief under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff United States of America respectfully prays and requests
that this Court:

1. Enter a judgment against defendants for all un-reimbursed response costs incurred by the United States and DTSC through the date of judgment, plus interest;

2. Enter a declaratory judgment pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. 9613(g)(2), holding defendants jointly and severally liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for all further response costs to be incurred by the United States and DTSC for response actions in connection with releases at and from the site;

3. Order defendants to abate the threat posed by the release or threatened release of hazardous substances by performing the remedy selected by EPA in the IROD; and

4. Grant such additional relief as the Court deems appropriate.

Respectfully submitted,

DATE: 11/26/03

Acting ~~THOMAS L. SANSONETTI~~
Assistant Attorney General
Environment and Natural Resources
Division
United States Department of Justice

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DATE: 11/12/2003

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